

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

ELECTRONICALLY
FILED
May 11 2021
U.S. DISTRICT COURT
Northern District of WV

MARY JANE ANDERSON and CHASE
ANDERSON,

Plaintiffs,

Civil Action No. **1:21-cv-62 (Kleeh)**

v.

FDF ENERGY SERVICES, LLC, a Delaware
Limited Liability Company,

Defendant.

NOTICE OF REMOVAL

AND NOW, comes the Defendant, FDF Energy Services, LLC, by and through its attorneys, Timothy Smith, Esquire, Julie A. Brennan, Esquire, and Pion, Nerone, Girman, Winslow & Smith, P.C., and removes the above-captioned lawsuit pursuant to 28 U.S.C. §1441 *et seq.* from the Circuit Court of Pleasants County, West Virginia (Civil Action No. 21-C-5) to the United States District Court for the Northern District of West Virginia, and in support thereof avers as follows:

1. Plaintiffs initiated this lawsuit in the Circuit Court of Pleasants County, West Virginia at Civil Action No. 21-C-5. Copies of all process, pleadings and Orders served upon the Defendant are attached hereto as Exhibit "A". A copy of the State Court Docket is attached hereto as Exhibit "B".

2. The Complaint names as Defendant FDF Energy Services, LLC and asserts negligence, recklessness, and willfulness in the maintenance and operation of a tractor trailer, along with vicarious liability for the negligence, recklessness and willfulness of Defendant's agent in connection with an automobile accident that occurred on or about April 13, 2019 in St. Marys,

Pleasants County, West Virginia. (Compl. ¶¶ 6, 9, 12, 13, 17). Plaintiffs seek to recover compensatory and punitive damages.

3. Plaintiffs are residents of Wood County, West Virginia. (Compl. ¶ 1).

4. Defendant is a Delaware limited liability company with a principal place of business located in Louisiana. FDF Energy Services, LLC does not have any members that are residents of the State of West Virginia.

5. According to the Complaint, Plaintiff Mary Jane Anderson suffered serious, permanent, and disabling injuries, including but not limited to a fractured and dislocated right hip, ten rib fractures, a sternum fracture, facial abrasions and lacerations, a closed head injury, acute respiratory failure, and anxiety and depression as a consequence of the automobile accident. (Compl. ¶ 14).

6. According to the Complaint, Plaintiff Chase Anderson suffered serious, permanent and disabling injuries, including but not limited to deep facial lacerations resulting in permanent scarring, extensor tenosynovitis of the left wrist, severe anxiety and depression, and abrasions to the right knee as a consequence of the automobile accident. (Compl. ¶ 15).

7. Moreover, as stated, Plaintiffs seek to recover punitive damages in this case.

8. Based upon the injuries alleged in the Complaint, upon information and belief the amount in controversy in this case is in excess of \$75,000.00.

9. The above-captioned action is within the jurisdiction of the United States District Court for the Northern District of West Virginia.

10. The United States District Court for the Northern District of West Virginia has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 inasmuch as the amount in

controversy exceeds the sum of Seventy-Five Thousand (\$75,000) Dollars, exclusive of interest and costs, and is between citizens of different states.

11. This action is removable from the Circuit Court of Pleasants County, West Virginia, pursuant to the provisions of 28 U.S.C. §1441 *et seq.*

12. Concurrent with the filing of this Notice of Removal, Defendant has filed a Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Pleasants County, West Virginia advising that it has removed this action to the United States District Court for the Northern District of West Virginia.

13. In filing this Notice of Removal, Defendant does not waive any affirmative defenses they may assert in this action

WHEREFORE, Defendant, FDF Energy Services, LLC respectfully pray that this Honorable Court remove the above-captioned case from the Circuit Court of Pleasants County, West Virginia to the United States District Court for the Northern District of West Virginia.

Respectfully submitted,

PION, NERONE, GIRMAN, WINSLOW
& SMITH, P.C.

By: /s/ Julie A. Brennan
Timothy Smith, Esquire (#6128)
tsmith@pionlaw.com
Julie A. Brennan, Esquire (#11225)
jbrennan@pionlaw.com
1500 One Gateway Center
420 Fort Duquesne Boulevard
Pittsburgh, PA 15222

Phone: 412-281-2288
Fax: 412-281-3388

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon all parties,
via email, this 11th day of May, 2021, as follows:

Timothy C. Bailey, Esquire
David A. Bosak, Esquire
Bailey, Javins & Carter, LC
213 Hale Street
Charleston, WV 25301
tbailey@bjc4u.com
dbosak@bjc4u.com

PION, NERONE, GIRMAN, WINSLOW
& SMITH, P.C.

By: /s/ Julie A. Brennan
Julie A. Brennan, Esquire